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Appl. No. 10/824,833
Amdt. dated December 20, 2006
Reply to Office Action of September 20, 2006

PATENT**REMARKS/ARGUMENTS**

In response to Restriction Requirement mailed September 20, 2006, Applicants elect with traverse Group VI, Claims 64-82 and 112-113 drawn to a method of treating cancer by administering an IMPDH inhibitor and an interferon inducer. Applicants also elect the following species with traverse: disease, melanoma; interferon inducer, a toll like receptor (TLR) ligand; and IMPDH inhibitor mizoribine. Claims 1-51 are cancelled.

The foregoing election is made with traverse. Applicants request that Group VI and Groups V and VIII, using the same combination of therapeutic compounds, *i.e.*, the elected species of a TLR ligand and mizoribine be examined together.

Applicants also assert that, at the very least, claim 64 is a genus claim linking treatments of melanoma. As such, upon allowance of a linking genus claim, the restriction requirement should be withdrawn with respect to the species claims. MPEP 809.03. Applicants further note that when the requirement for restriction is predicated upon the non-allowability of a generic linking claim, Applicant is entitled to retain in the case claims to the non-elected invention. If the generic linking claim is allowed, the Examiner must then examine non-elected claims to species falling within the genus. MPEP 809.04.

Finally, restriction of an application is discretionary. A restriction requirement is made to avoid placing an undue examination burden on the Examiner and the Office. Where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. MPEP 803.01. Applicants respectfully submit that examining the claims of Group VI and Groups IV and VIII together (all using the same combination of therapeutic agents) would not place an undue burden on the Examiner. Applicants therefore respectfully request that the restriction requirement with respect to Group VI and Groups IV and VIII be withdrawn.

CONCLUSION

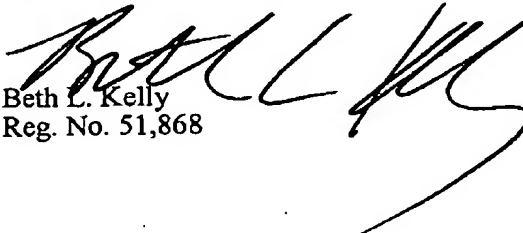
In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


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